CF 100/-

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR.

W.P.NO. 2538 **/2003**

PETITIONER M.R. Sonwani, son of Late S.R. Sonwani, aged about 50 years, Head Master, Middle School Parvi Block Bhanupratappur Distt. Kanker (CG)

VERSUS

RESPONDENTS :

1. State of Chhattisgarh, through Secretary Scheduled Caste, Scheduled Tribe and Other Backward Caste and Minorities Communities Welfare Department, Mantralay D.K.S. Bhawan, Raipur
2. Collector Kanker, Distt. Kanker (CG)
3. Assistant Commissioner, Tribal Development and Enquiry Officer, Kanker District (Chhattisgarh)
4. Assistant Project Officer, Tribal Development Project Kanker (Chhattisgarh).
5. Block Education Officer, Adiwashi Vikas Khand Bhanupratappur, Distt. Kanker (Chhattisgarh).

P. R. No. 2355/03
Presented by Shri ... Advocate
dated 14/06/03

APPLICATION UNDER ARTICLES 226/227 OF THE CONSTITUTION

The petitioner respectfully begs to submit as under:-

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(51)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 2538/2003 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

01/09/2003: -

Heard Smt. Fouzia Mirza counsel for the petitioner and Shri Praveen Das, Panel Lawyer, for the State/respondents on advance copy.

By this petition filed under Articles 226/227 of the Constitution of India the petitioner has challenged the orders (Annexures-P/4 & P/5) dated 13/05/2002 and 07/06/2002 by which the petitioner was suspended and charge-sheet was issued to him.

The case of the petitioner is that he was working as Head Master, Middle School Parvi Block, Bhanupratappur, District Kanker and he was placed under suspension by the Collector vide order dated 13/05/2002 on the ground of preparing the pay bill of Shri Jagdish Kumar Nag, Assistant Teacher Primary Government School, Purvi whereas he was absent from his duties for the period from August 2000 to October 2001. The Collector got conducted preliminary enquiry through the SDO, Bhanupratappur who submitted his report to the Collector, Kanker in which he has recorded his finding that Jagdish Kumar Nag was continuously absent from duty for a period of one year and yet his pay was drawn as a result of conspiracy in which Jagdish kumar Nag, M.R. Sonwani - the petitioner herein, Block Education Officer, Bhanupratappur, J.L. Mandavi and

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Gram Panchayat Sarpanch namely Gokul Ram Netam were found guilty jointly. The treasury failed to take any objection. The Collector, Kanker has decided to order enquiry against the petitioner and did not initiate disciplinary action against the main guilty person namely J.L. Mandavi, Block Education Officer for the reasons best known to him. The charge-sheet was issued to the petitioner on 07/06/2002 and the petitioner submitted his written statement on 23/07/2002 in which the petitioner had mentioned that the order of the Collector is discriminatory inasmuch as no action has been initiated against the Block Education Officer who had passed the pay bill and disbursed the same. The petitioner had only prepared the pay bill under the instructions of the Block Education Officer but he did not sign the said pay bill or any other paper. Even then the Collector in order to illegally protect the Block Education Officer did not give reply and appointed enquiry officer Shri Srikant Dubey Assistant Commissioner, Tribal Development and Shri P.K. Choubey, Assistant Project Administrator, Kanker. Therefore, the petitioner has prayed for quashing the impugned orders (Annexures-P/4 & P/5).

I have heard the learned counsel appearing for the petitioner.

The only submission of the learned counsel for the petitioner is that as per the enquiry report submitted by the SDO,

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आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Bhanupratappur apart from the petitioner the Block Education Officer and the Sarpanch of the village Panchayat were also party in making the payment to Jagdish Kumar Nag. For then reasons best known to the Collector why the petitioner has been single out, is not known to the petitioner and this is a discriminatory treatment to the petitioner.

It is not in dispute that the charge-sheet has been served on the petitioner who in turn had submitted the reply and the enquiry is yet to be completed. The petitioner had raised his defence in the enquiry proceedings. The evidence is yet to be recorded about the role of the petitioner and the Block Education Officer. The finding of the SDO is based on the preliminary enquiry only and after completion of the enquiry the finding can be recorded based on the evidence adduced by the department and the evidence adduced by the petitioner. Therefore, at this stage unless the enquiry is completed after recording the evidence, it is difficult to say that who was responsible and up to what extent in making the payment to Jagdish Kumar Nag.

In view of the above, I do not find any substance in this writ petition. However, learned counsel for the petitioner submits that since the year 2002 the enquiry is pending and the same is not

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आदेश पत्रक

मामला क्रमांक WP 2538/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	proceeding. In the circumstances, the Enquiry Officer is directed to expedite the enquiry and submit his report as early as possible. With the above observation, the petition is disposed of. Parties are entitled for certified copy of this order. **Sd/-** **L.C. Bhadoo** **Judge**	